

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

LATAIZ M. STRIBLING,

Plaintiff,

v.

**Civil Action 2:13-cv-813
Judge James L. Graham
Magistrate Judge Elizabeth P. Deavers**

**DEPARTMENT OF REHABILITATION
AND CORRECTION, *et al.*,**

Defendants.

REPORT AND RECOMMENDATION

Plaintiff filed his Complaint and Motion to Proceed *in forma pauperis* on August 19, 2013. On August 28, 2013, the Court granted Plaintiff's Motion to Proceed *in forma pauperis* and directed him to submit an additional Marshal form for service over Tony Ayers and Summons forms for service upon all Defendants. (ECF No. 2.) Plaintiff did not provide the appropriate forms, but notified the Court on September 5, 2013, that he had been released from the Pickaway Correctional Institution. (ECF No. 4.) On February 11, 2014, the Court ordered Plaintiff to provide the Summons and Marshal forms to perfect service over Defendants as required under Federal Rule of Civil Procedure 4(m) or to alternatively show cause why the Court should not dismiss this action pursuant to Rule 4(m). (ECF No. 6.) Because of Plaintiff's release from prison, the Court further ordered Plaintiff to submit the entire filing fee or to file a revised non-prisoner application for leave to proceed *in forma pauperis*. (*Id.*) To date, Plaintiff has not provided the appropriate Summons and Marshal forms or responded to the Court's Show

Cause Order. Nor has Plaintiff paid the filing fee or filed an application for leave to proceed *in forma pauperis*. It is therefore **RECOMMENDED** that the Court dismiss this action without prejudice pursuant to Rule 4(m) for failure to timely effect service of process.

PROCEDURE ON OBJECTIONS

If any party seeks review by the District Judge of this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties objections to the Report and Recommendation, specifically designating this Report and Recommendation, and the part in question, as well as the basis for objection. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy. Fed. R. Civ. P. 72(b).

The parties are specifically advised that the failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court. *See, e.g., Pfahler v. Nat'l Latex Prod. Co.*, 517 F.3d 816, 829 (6th Cir. 2007) (holding that “failure to object to the magistrate judge’s recommendations constituted a waiver of [the defendant’s] ability to appeal the district court’s ruling”); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005) (holding that defendant waived appeal of district court’s denial of pretrial motion by failing to timely object to magistrate judge’s report and recommendation). Even when timely objections are filed, appellate review of issues not raised in those objections is waived. *Robert v. Tesson*, 507 F.3d 981, 994 (6th Cir. 2007) (“[A] general objection to a magistrate judge’s report, which fails to

specify the issues of contention, does not suffice to preserve an issue for appeal”) (citation omitted)).

IT IS SO ORDERED.

Date: March 10, 2014

/s/ Elizabeth A. Preston Deavers
Elizabeth A. Preston Deavers
United States Magistrate Judge